

SEP 16 2011

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE WASHINGTON STATE GAMBLING COMMISSION

GAMBLING COMMISSION  
COMM & LEGAL DIVISION

In the Matter of the Suspension or  
Revocation of the Certification to  
Conduct Gambling Activities of

Stanley I Ruff,

Class III Employee.

Docket No. 2011-GMB-0023  
No. CR 2010-00397

INITIAL ORDER

Administrative Law Judge John M. Gray conducted an administrative hearing in this matter on July 18, 2011, at the Gambling Commission Office, 4565 7<sup>th</sup> Avenue SE, Lacey, Washington. Notice of this hearing was previously issued to the parties on June 14, 2011.

Bruce Marvin, Assistant Attorney General, appeared and represented the Washington State Gambling Commission ("Commission"). Special Agent Julie Sullivan testified on behalf of the Commission. The Commission offered exhibits 1 through 28 at the hearing, which were admitted without objection. The Commission also offered substitute, certified copies of exhibits 10, 12, 14, 16, 18, 20, 22, and 24, which were admitted without objection.

Stanley I. Ruff appeared representing himself and testified. Mr. Ruff had no exhibits. Mr. Ruff's wife and son appeared, but did not testify (although Mrs. Ruff spoke briefly on his behalf after closing arguments without objection from the State and with the consent of the undersigned Administrative Law Judge).

Having considered the entire record, the undersigned Administrative Law Judge enters the following Findings of Fact, Conclusions of Law, and Initial Order.

Procedural History:

On May 18, 2011, the Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing ("Notice"). On May 31, 2011, the Commission issued an Amended Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding ("Amended Notice"). On June 14, 2011, the Commission issued the Notice of Hearing setting this case to be heard at 9:00 AM on July 18, 2011, in the Commission's Hearing Room at 4565 7<sup>th</sup> Avenue SE in Lacey, Washington. The Commission stated the reason for its action against Mr. Ruff's Certification in the Notice, the Amended Notice, and the Notice of Hearing: "Based on the licensee/Class III employee's failure to pay court ordered court fines and fees, he poses a threat to the effective regulation of gaming and enhances the chance of unfair illegal practices." The amount of unpaid court fines and fees at the time of the hearing was \$5,137.27.

The Commission served the Notice by regular and certified United States mail on May 18, 2011. Mr. Ruff filed his request for a hearing on May 20, 2010.

The administrative hearing on the merits was held on July 18, 2011. The Commission urges the revocation of Mr. Ruff's gambling license for these reasons:

1. Mr. Ruff violated Section V.C. of the Muckleshoot Tribe/State Compact (the "Tribal Compact"), which provides that the Gambling Commission may revoke, suspend, or deny a Class III certification for any reason it deems to be in the public interest, as provided in RCW 9.46.075 and in the Gambling Commission regulations.
2. Mr. Ruff violated Section V.C.(1) of the Tribal Compact, which provides that a Class III certification may be revoked if the employee's prior activities, criminal

record, reputation, habits, or associations pose a threat to the effective regulation of gambling, or create or increase the likelihood of unfair practices, methods, or activities in the conduct of gambling activities.

3. Mr. Ruff violated Section V.C.(1), which further provides that an employee's Class III certification may be revoked if the holder has violated, failed, or refused to comply with the provisions, requirement, conditions, limitations, or duties imposed by the Tribal Compact.
4. Mr. Ruff violated RCW 9.46.075(1) and WAC 230-03-085(1), which provide that the Commission may revoke a Class III certification for any reasons it deems to be in the public interest, including an applicant's failure to comply with the Washington State laws and regulations governing gambling.
5. Mr. Ruff violated WAC 230-03-085(3), which provides that the Commission may revoke a Class III certification if the holder has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.
6. Mr. Ruff violated WAC 230-03-085(8), which provides that the Commission may revoke a Class III certification when the holder poses a threat to the effective regulation of gambling, or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by prior activities, criminal record, reputation, habits, or associations

The undersigned Administrative Law Judge, having considered the evidence, now enters the following Findings of Facts:

## FINDINGS OF FACT

1. Mr. Ruff is employed at the Muckleshoot Casino. He is not an enrolled member of the Muckleshoot Tribe.

2. The Commission issued a Class III certification to Mr. Ruff. A Class III certification is issued to employees who work at Tribal casinos. The Class III certification authorizes similar activities as the card room employee (CRE) license issued to individuals working at commercial house-banked card rooms. Holders of a Class III Certification may apply to have the certification transferred to a CRE license. Mr. Ruff's Class III certification bears the number 69-14029, and, without more, expires on March 23, 2012. He also holds License No. 68-05790.

3. Julie Sullivan is a Special Agent employed by the Commission and assigned to the Criminal History Division. She has five years of experience working at the Commission and has received training from the Washington State Criminal Justice Training Commission, the FBI, and the DEA. Mr. Ruff first came to Special Agent Sullivan's attention when she ran a background check on Mr. Ruff in 2010. She became aware of Mr. Ruff's record of driving infractions and failures to pay fines or fees imposed by courts for those infractions.

4. Special Agent Sullivan's first action was to write to Ms. Marena Cross, an employee of the Muckleshoot Tribal Gaming Agency in Auburn, Washington. In her March 9, 2010 letter, she informed Ms. Cross of her background check on Mr. Ruff and of the State's concern that Mr. Ruff's record of frequent driving infractions and failures to pay court-order fines and fees "may pose a threat to the effective regulation of gaming and enhances the chance of unfair or illegal practices, methods or activities of the

gaming activity due to the financial pressure facing him.” Special Agent Sullivan did not initiate administrative action in March 2011, but brought the facts to Ms. Cross’s attention in the hope that Ms. Cross would speak to or write to Mr. Ruff to pay his obligations immediately. Exhibit 2.

5. Special Agent Sullivan had no reply from Ms. Cross. Meanwhile, Mr. Ruff filed a renewal application with the Commission. Having again come to Special Agent Sullivan’s attention, she wrote to Ms. Cross on February 22, 2011. This letter summarized her concerns and informed Ms. Cross that she would begin the steps to revoke Mr. Ruff’s license, but gave Ms. Cross until March 12, 2011, to tell Special Agent Sullivan how the Tribal Gaming Authority wished to proceed.

6. Ms. Cross wrote to Mr. Ruff on February 22, 2011, telling him of the Commission’s concerns with him, and urged him: “To avoid any interruption or possible suspension and/or revocation of your Class III License, you must take immediate action to resolve these issues and provide [the Muckleshoot Gaming Commission] licensing with documentation thereof.”

7. Special Agent Sullivan spoke with Ms. Cross on March 15, 2011, and learned that Mr. Ruff is not a tribal member, so that he is ineligible for “conditional certification.” Exhibit 7. “Conditional certification” is provided for in the Tribal Compact V.C.(5): “The Tribal and State Gaming Agencies may waive, by mutual agreement, through a provisional or conditional certification, certain criteria for such enrolled tribal members if the waiver does not pose an appreciable risk to the public or the lawful operation of the gaming facility.”

8. On April 11, 2011, Special Agent Sullivan sent an email to Ms. Cross informing her that by now, Mr. Ruff had paid \$53, bringing his total amount owed to \$5,508, and "since he is not a tribal member and does not have the option of a conditional, I will be starting my revocation report his week. Please let me know what TGA's [Tribal Gaming Authority's] input is on this." Exhibit 8. (However, by the date of the hearing, the amount owed had decreased to \$5,137.27).

9. After one more telephone conversation with Ms. Cross on April 15, 2011, Special Agent Sullivan began license revocation proceedings.

10. There are eight cases in which the court fines and fees remain unpaid that form the basis for the Commission's action against Mr. Ruff's Certification. All of these cases arose in Yakima County, Washington.

14. Mr. Ruff was cited on August 15, 2006, for driving too fast for conditions and for operating a motor vehicle without a valid operator's license. The case number was Yakima County District Court No. 53846. Both violations were adjudicated as committed. The fines or fees assessed were \$691. Mr. Ruff has paid nothing against this fine and still owes \$691.

15. Mr. Ruff was cited on May 23, 2006, for operating a motor vehicle without insurance and for operating a motor vehicle without a valid operator's license. The case number was Yakima Municipal Court No. F00041182. Both violations were adjudicated as committed. The fines or fees assessed were \$1,128. Mr. Ruff has paid nothing against this fine and still owes \$1,128.

16. Mr. Ruff was cited on June 6, 2003, for driving while his license was suspended in the third degree. The case number was Yakima Municipal Court No.

F00051846. The violation was adjudicated as guilty. The fine or fees assessed were \$1,060. Mr. Ruff has paid nothing against this fine and still owes \$1,060.

17. Mr. Ruff was cited on December 11, 2002, for driving while his license was suspended in the third degree and for negligent driving in the first degree. The case number was Yakima County District Court No. 394564. The violations were adjudicated as guilty. The fines or fees assessed were \$1,545. Mr. Ruff has paid nothing against this fine and still owes \$1,545.

18. Mr. Ruff was cited on February 11, 2002, for driving with license suspended in the third degree. The case number was Yakima County District Court No. 348244. The violation was adjudicated as guilty. The fines or fees assessed were \$445. Mr. Ruff has paid nothing against this fine and still owes \$445.

19. Mr. Ruff was cited on April 5, 2001, for driving with license suspended in the third degree. The case number was Yakima Municipal Court No. E00066729. The violation was adjudicated as guilty. The fines or fees assessed were \$250. Mr. Ruff has paid nothing against this fine and still owes \$250.

20. Mr. Ruff was also cited on April 5, 2001, for failure to stop or yield at an intersection. The case number was Yakima Municipal Court No. E00031977. The violation was adjudicated as committed. The fines or fees assessed were \$41. Mr. Ruff has paid nothing against this fine and still owes \$41.

21. Mr. Ruff was cited on June 12, 1999, for driving with license suspended in the third degree. The case number was Yakima County District Court No. 129770. The violation was adjudicated as guilty. The fines or fees assessed were \$328.27. Mr. Ruff paid \$60 and still owes a balance of \$268.27.



22. As of the date of this hearing, Mr. Ruff owed a total of \$5,137.27 in unpaid fines and fees. Exhibit 28.

23. The claimant has worked as a table games dealer since 1990. He resides now in Western Washington. He is currently employed at the Muckleshoot Casino. He has had traffic violations in both Western and Eastern Washington. He has paid his fines and fees for violations in Western Washington, and hopes now to pay the fines and fees for violations in Eastern Washington.

#### CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction over the persons and subject matter of this case pursuant to the Tribal-State Compact for Class III Gaming Between the Muckleshoot Indian Tribe and the State of Washington, RCW 9.46.140, Chapter 34.05 RCW, and Title 230 WAC.
2. The State of Washington and the Muckleshoot Indian Tribe are parties to the Tribal-State Compact for Class III Gaming ("Compact"), signed by representatives of both parties on February 19, 1993. The Washington State Gambling Commission is the "State Gaming Commission" ("SGA") identified in the Compact. The Muckleshoot Tribal Gaming Commission is the "Tribal Gaming Agency" ("TGA") identified in the Compact. The Compact defines "state certification" to mean "the licensing process utilized by the State Gaming Agency to ensure all persons required to be licensed/certified are qualified to hold such license in accordance with the provisions of Chapter 9.46 RCW." The Compact authorizes the SGA to investigate applicants for "state certification," and provides for other state enforcement action, including summary suspension of state certification.



3. The Compact provides, "Any applicant for State certification agrees by submitting such application to submit to State jurisdiction to the extent necessary to determine qualification to hold such certification, including all necessary administrative procedures, hearings and appeals pursuant to RCW 9.46, WAC 230-50 [amended and recodified today as WAC 230-17; see, WSR 07-21-156] and the State Administrative Procedures [sic] Act, RCW 34.05. As a condition of employment in Class III activities, the Tribe shall require Tribal members who apply for certification specifically, waive any immunity, defense, or other objection they might otherwise have to the exercise of state jurisdiction for those purposes discussed in this paragraph. Nothing in this Section shall be deemed or interpreted as a waiver or immunity or submission to State jurisdiction for any other purpose or cause of action."

4. The Compact provides, "The State Gaming Agency may revoke, suspend or deny a State certification for any reason or reasons it deems to be in the public interest." These reasons include, but are not limited to, violating, failing or refusing to comply with the provisions, conditions, limitations, or duties imposed by chapter 9.46 RCW and any amendments to that chapter, and any rules adopted by the State Gaming Agency pursuant to chapter 9.46 RCW.

5. Mr. Ruff holds a Class III Certification and is subject to RCW 9.46.075 and WAC 230-03-085.

6. The Commission has the broad purpose of protecting the public by insuring that those activities authorized by Ch. 9.46 RCW do not maliciously affect the public and do not breach the peace. RCW 9.46.010.

7. The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities by strict regulation and control. The Commission is required to closely control all factors incident to the activities authorized in Ch. 9.46 RCW, and the provisions of Ch. 9.46 RCW are to be liberally construed to achieve those ends. RCW 9.46.010.

8. Mr. Ruff has, on eight separate occasions in Washington State, either been found guilty of criminal traffic violations or been found to have committed traffic infractions, been fined for those violations or infractions, and has failed to pay those fines. These fines have been long-standing; the oldest dates back to 1999. The total amount remaining unpaid as of the date of this hearing is \$5,137.27.

9. RCW 9.46.075(1) provides that the Commission may suspend or revoke any license or permit issued by it, for any reason or reasons it deems to be in the public interest, including failing to comply with chapter 9.46 RCW and Title 230 WAC, and including failing to prove by clear and convincing evidence that he is qualified in accordance with the provisions of chapter 9.46 RCW.

10. WAC 230-03-085 provides that the Commission may suspend or revoke any license or permit when the licensee (3) has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level, and (8) when the licensee poses a threat to the effective regulation of gambling, or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by prior activities, criminal record, reputation, habits, or associations.

11. The Compact, Section V.C.(1) provides that the State Gaming Agency may suspend or revoke a license not only for the reasons provided in RCW 9.46.075, but also if a licensee "is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted pursuant to this Compact; or the person has violated failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal/State Compact."

12. The heart of the Commission's action against Mr. Ruff is that he has not paid the fines and fees assessed against him by Washington Courts for his traffic violations between 1999 and 2006. The Commission fears that Mr. Ruff is no longer qualified to hold his Class III Certification because he has not paid his fines and fees and, consequently, cannot show that he is qualified to hold his Certification in accordance with the provisions of chapter 9.46 RCW.

13. Mr. Ruff has shown a disregard for the courts' orders requiring him to pay fines and fees in an astonishing high amount of money for an individual. He has let these fines and fees go unpaid for much longer than he should have.

14. The evidence also shows that Mr. Ruff has no unpaid fines or fees more recently than August 2006. Perhaps Mr. Ruff has, as he put it, "cleaned up his act." It is also true that none of the fines and fees relate to activities directly conducted with the substantive acts of working within a casino. They all derive from traffic offenses. The same long time period in which Mr. Ruff failed to pay his fines and fees also show that he has not violated any of the substantive gambling statutes or rules on a job that

requires the possession of a gambling license. That fact cuts against the Commission's argument that, by failing to pay his court ordered court fines and fees, Mr. Ruff poses a threat to the effective regulation of gaming and enhances the chance of unfair illegal practices. One would think that some kind of substantive gambling regulation violation would have occurred by now if he were a risk to the effective regulation of gambling.

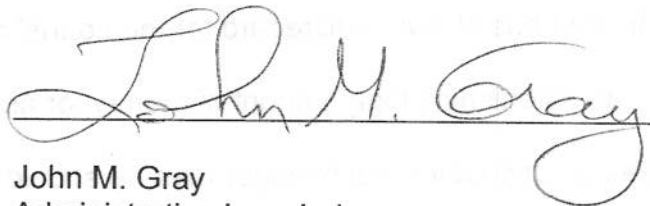
15. I conclude that the Commission has not met its burden of proving by a preponderance of the evidence that Mr. Ruff's license should be revoked.

From the foregoing conclusions of law, NOW THEREFORE:

INITIAL ORDER

IT IS HEREBY ORDERED That the Commission's proposal to revoke Mr. Ruff's Class III Certification, License No. 69-14029 and 68-05790, is DENIED.

DATED at Olympia, Washington, this 15<sup>th</sup> day of September, 2011.

A handwritten signature in cursive script, reading "John M. Gray", written over a horizontal line.

John M. Gray  
Administrative Law Judge  
Office of Administrative Hearings

NOTICE TO THE PARTIES


Initial orders must be entered in accordance with RCW 34.05.461(3). WAC 230-17-085(1). Section 5(e) and (n) of the Compact may also apply. An initial order becomes the final order unless a party files a petition for review of the initial order as explained in WAC 230-17-090. WAC 230-17-085(2). RCW 34.05.464 governs the review of initial orders. WAC 230-17-090(1). Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with us within twenty days of the date of service of the initial order unless otherwise stated. Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed. WAC 230-17-090(2). Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition. WAC 230-17-090(3). Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with us within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed. WAC 230-17-090(4). Any party may file a cross appeal. Parties must file cross appeals with us within ten days of the date the petition for review was filed with us. WAC 230-17-090(5). Copies of the petition or the cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed. WAC 230-17-090(6). After we receive the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order. WAC 230-17-090(7).

**Certificate of Service – OAH Docket No. 2011-GMB-0023**

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

Address: <b>Stanley I. Ruff</b> <b>210 SE 37<sup>th</sup> Street #100</b> <b>Auburn, WA 98002</b>	First Class US Mail, postage prepaid
Address: <b>H. Bruce Marvin</b> <b>Assistant Attorney General</b> <b>Office of the Attorney General</b> <b>PO Box 40100</b> <b>Olympia, WA 98504-0100</b>	First Class US Mail, postage prepaid
Address: <b>Washington State Gambling Commission</b> <b>Communications &amp; Legal Division</b> <b>PO Box 42400</b> <b>Olympia, WA 98504-2400</b>	First Class US Mail, postage prepaid
Address:	
Address:	
Address:	

Date: September 15, 2011

  
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Karen Williams  
Office of Administrative Hearings